

T.D. INFORMAL MEMO: DO NOT MAIL THIS MEMO TO APPLICANT

DATE: 27-Apr-05APPL. S.N.: 09/915,736TO: EXAMINER LY, NGHIART UNIT: 2686FROM: Jefferson, Henry
PARALEGAL SPECIALIST

RETURN THIS MEMO TO:

Case Drop-Off Locatio

SUBJECT: Decision on Terminal Disclaimer (T.D.) filed: 03-Jan-05

INSTRUCTIONS: I have reviewed the submitted T.D. with the results as set forth below. If you agree, please use the appropriate form paragraphs identified by this informal memo in your next Office action to notify applicant of the T.D. If you disagree or have any questions, please see me or the Special Program Examiner. THIS IS AN INFORMAL, INTERNAL MEMO ONLY. IT MUST NOT BE (1) MAILED TO APPLICANT OR (2) PLACED OF RECORD IN THE APPLICATION FILE. When your action is complete, please initial, date and return this memo to me. THANK YOU.

The T.D. is PROPER and has been recorded (see ¶14.23).

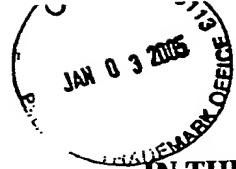
The T.D. is NOT PROPER and has not been accepted for the reason(s) checked below (see ¶ 14.24):

- The TD fee of has not been submitted nor is there any authorization in the application file for the use of a deposit account (see ¶ 14.26.07).
- The T.D. does not satisfy Rule 321 in that the person who has signed the T.D. has not stated the extent of his/her interest (and/or the extent of the interest of the business entity represented by the signature) in the application/patent (see ¶¶ 14.26 & 14.26.01).
- The T.D. lacks the enforceable only during common ownership clause – needed to overcome a non-statutory double patenting rejection, Rule 321(b) (see ¶ 14.27.01).
- The T.D. is directed to a particular claim(s), which is not acceptable since “the disclaimer must be for a terminal portion of the term of the entire patent to be granted” (MPEP 1490) (see ¶¶ 14.26 & 14.26.02).
- The person who signed the T.D.:
 - is not an attorney “of record” (see ¶¶ 14.29 and 14.29.01).
 - has failed to state his/her capacity to sign for the business entity (see ¶ 14.28).
 - is not recognized as an officer of the assignee (see ¶¶ 14.29 & possible 14.29.02).
- No documentary evidence of a chain of title from the original inventor(s) to assignee has been submitted, nor is the reel and frame number specified as to where such evidence is recorded in the Office (see 37 CFR 3.73(b) and 1140 O.G. 72). NOTE: This documentary evidence or the specifying of the reel and frame number may be found in the T.D. or in a separate paper of record in the application (see ¶ 14.30).
- The T.D. is not signed (see ¶¶ 14.26 & 14.26.03).
- The serial number of the application (or the number of the patent) which forms the basis for the double patenting rejection is missing or incorrect (see ¶ 14.32).
- The serial number of this application (or the number of the patent in reexam or reissue cases being disclaimed) is missing or incorrect (see ¶¶ 14.26, 14.27.02 or 14.26.05).
- The period disclaimed is incorrect or not specified (see ¶¶ 14.26, 14.27.02 or 14.26.03).
- Other:
- Suggestion to request refund (see ¶ 14.36). NOTE: If already authorized, credit refund to deposit account and **do not** check this item.

I have appropriately notified applicant(s) of the status of the Terminal Disclaimer filed in this case.

Ex. Initials: _____ Date: _____

Log Date: _____



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application) For: METHOD AND APPARATUS
 No. 09/915,736) FOR ADAPTIVE SERVER
) SELECTION IN A DATA
) COMMUNICATION SYSTEM
 ATTAR et al.)
)
 Examiner: Nghi H. Ly)
)
 Filed: July 26, 2001) Group No. 2686

**TERMINAL DISCLAIMER TO OBLVIAE A DOUBLE PATENTING REJECTION
 UNDER 37 CFR §1.321(c)**

Mail Stop Amendment
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

Dear Sir:

I, Jian Ma, am the agent of record for this invention. The assignee, QUALCOMM Incorporated, is located at 5775 Morehouse Drive, San Diego, California 92121.

CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is, on the date shown below, being:

MAILING

deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Depositor's Name: Karyn D. Lao
 (type or print name)

Date: December 30, 2004

Signature: 

1/04/2005 EABUBAK1 00000053 170026 09915736

11 FC:1814 130.00 D0

FACSIMILE

transmitted by facsimile to the Patent and Trademark Office.

Depositor's Name: _____
 (type or print name)

Date: _____

Signature: _____

Attorney Docket No.: 010032B1
 Customer No.: 23696

EXTENT OF DISCLAIMANT'S INTEREST

The extent of the interest in this invention that the disclaimant owns is the whole of this invention.

RECORDAL OF ASSIGNMENT

The Assignment was recorded on September 19, 2001, Reel 012182 and Frame 0173.

DISCLAIMER

In response to the Office Action dated July 9, 2004 and further to Applicants' Response to Office Action filed on September 8, 2004, Applicants file a terminal disclaimer to obviate the basis for rejecting claims 1-31.

Applicants also note that U.S. patent application no. 09/892,278 (which is discussed in the Remarks of Applicants' Response to Office Action filed on September 8, 2004) should be corrected to read 09/892,378 (now U.S. Patent No. 6,757,520).

The terminal part of the statutory term of any patent granted on the above-identified application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §154-156 and 173 of: United States Patent No. 6,757,520 is hereby disclaimed, except as provided below, and it is agreed that any patent so granted on the above identified application shall be enforceable only for, and during, such period that the legal title to said patent shall be the same as the legal title to United States Patent No. 6,757,520, this agreement to run with any patent granted on the above identified application and to be binding upon the grantee, its successors or assigns.

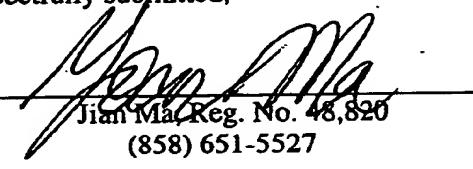
In making the above disclaimer, disclaimant does not disclaim the terminal part of any patent granted on the above identified application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. § 154-156 and 173 of United States Patent No. 6,757,520, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR § 1.321,

has all claims canceled by a reexamination certificate, is reissued in any manner or is terminated prior to expiration of its full statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

The Commissioner is hereby authorized to charge payment of the Terminal Disclaimer Fee of \$130.00 under 37 CFR § 1.20(d) and any additional fees which may be required, or credit any overpayment, to Deposit Account No. 17 - 0026. A duplicate of this sheet is enclosed for charge purposes.

Respectfully submitted,

Dated: December 30, 2004

By: 

Jian Ma, Reg. No. 48,820
(858) 651-5527

QUALCOMM Incorporated
5775 Morehouse Drive
San Diego, California 92121
Telephone: (858) 651-4125
Facsimile: (858) 658-2502

AMENDMENT TRANSMITTAL FORM

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450



Customer No.: 23696
Attorney Docket No.: 010032B1
In Re Application of: ATTAR et al.
Serial Number: 09/915,736
Filed: July 26, 2001
Examiner: Nghi H. Ly
Group Art Unit: 2686

Dear Sir:

Transmitted herewith for filing is a Response to Office Action in the above identified application.

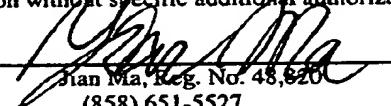
CLAIMS	(a) Number Remaining After Amendment	(b) Highest Number Previously Paid For	(c) Extra Claims	Large Entity Fee	Fee Paid
Total*	98	98	0	x \$50 =	\$0
Independent**	6	6	0	x \$200 =	\$0
Multiple Dependent Claim(s): <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				\$360	\$0
EXTENSION FEES			<input type="checkbox"/> One Month	\$120	\$0
			<input type="checkbox"/> Two Months	\$450	\$0
			<input type="checkbox"/> Three Months	\$1020	\$0
TERMINAL DISCLAIMER				\$130	\$130.00
				TOTAL FEE	\$130.00

*If the number in column a is less than 20, enter 0 in column c.

**If the number in column a is less than 3, enter 0 in column c.

4. Fee check in the amount of \$_____ is enclosed to pay for any claim and/or extension fees.
5. Please charge Deposit Account No. 17-0026 of QUALCOMM Incorporated the amount of \$130.00.
The Commissioner is hereby authorized to charge payment of any additional fees that may be required, or credit any overpayment to said Deposit Account No. 17-0026. A duplicate of this sheet is enclosed for fee processing.
6. The Commissioner is further hereby authorized to charge to said Deposit Account No. 17-0026, pursuant to 37 CFR 1.25(b), any fee whatsoever which may become properly due or payable, as set forth in 37 CFR 1.16 to 37 CFR 1.18 inclusive, for the entire pendency of this application without specific additional authorization.

Date: December 30, 2004

Signature: 

Stan Ma, Reg. No. 48,820
(858) 651-5527

QUALCOMM Incorporated

Attn: Patent Department
5775 Morehouse Drive
San Diego, California 92121-1714
Telephone: (858) 651-4125
Facsimile: (858) 658-2502

CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8(a))

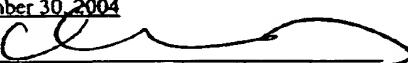
I hereby certify that this correspondence is, on the date shown below, being:

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deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Depositor's Name: Karyn D. Lao
(type or print name)

Date: December 30, 2004

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Signature: _____